

ESSEX, SS.

COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT
In Equity

PEABODY COMMUNITY HOUSE, INC.,
OF PEABODY, ESSEX COUNTY, PETITIONERS

VS

ATTORNEY GENERAL OF THE COMMONWEALTH, RESPONDENT

PETITION IN EQUITY

RESPECTFULLY REPRESENTS the petitioner that:

FIRST: The petitioner is a Corporation organized and existing under the laws of Massachusetts and chartered January 25, 1916.

SECOND: The object of the Corporation as set forth in its charter and by-laws is as follows:

The object of this organization shall be the cultivation of the educational, physical, moral, and social welfare of this community, and the promotion of good citizenship, especially by work among the boys and girls of Peabody; and to this end, the establishment and maintenance of a building or buildings for athletic, educational and social purposes.

THIRD: For a long time, and for at least twenty years, the Corporation has not functioned actively, and that no funds were raised by public subscription and no money expended for the purpose of the Corporation. It would be wholly impracticable to operate as intended.

FOURTH: The assets of the Corporation consist of a certain parcel of undeveloped real estate in Peabody and a deposit with The Warren Five Cents Savings Bank of Peabody of Twelve Thousand Thirteen Dollars and Seventeen Cents (\$12,013.17).

FIFTH: On April 15, 1953, at a meeting of the members of the Corporation at which a quorum was present, the vote was passed:

To authorize and empower the Board of Managers (providing ten members be present and voting) to deal in any manner in keeping with the purposes of the Corporation with the property of the Corporation and for that purpose to authorize and direct any officer of the Corporation to execute and deliver on behalf of the Corporation any documents, deeds or instruments whatsoever in connection therewith and to do any acts necessary in the premises.

SIXTH: On May 7, 1953, at a meeting of the managers of the petitioner was held, fourteen managers being present, the following votes were passed:

WILSON COMMUNITY HOUSE, INC.,
OF FRANKLIN COUNTY, PETITIONER

vs

ATTORNEY GENERAL OF THE COMMONWEALTH, RESPONDENT

PETITION IN EQUITY

RESPECTFULLY REMONSTRATES the petitioner that:

FIRST: The petitioner is a corporation organized and existing under the laws of Massachusetts and chartered January 25, 1916.

SECOND: The object of the corporation as set forth in its charter and by-laws is as follows:

The object of this organization shall be the cultivation of the educational, physical, moral, and social welfare of this community, and the promotion of good citizenship, especially by work among the boys and girls of the community and to this end, the establishment and maintenance of a building or buildings for educational, educational and social purposes.

THIRD: For a long time, and for at least twenty years, the corporation has not functioned actively, and that no funds were raised by public subscription and no money expended for the purpose of the corporation. It would be wholly impracticable to operate as intended.

FOURTH: The assets of the corporation consist of a certain parcel of undeveloped real estate in the city of Boston with the Boston Five Cent Savings Bank of Twenty Thousand Dollars and Seventeen Cents (\$12,017.17).

FIFTH: On April 15, 1933, at a meeting of the members of the corporation at which a quorum was present, the vote was passed:

To authorize and empower the Board of Managers (providing two members be present and voting) to deal in any manner in keeping with the purposes of the corporation with the property of the corporation and for that purpose to execute and direct any officer of the corporation to execute and deliver on behalf of the corporation any documents, deeds or instruments whatsoever in connection therewith and to do any acts necessary in the premises.

SIXTH: On May 7, 1933, at a meeting of the members of the corporation was held, fourteen managers being present, the following votes were passed:

1. That, in accordance with the authority vested in the board of managers by vote of the members at a meeting held April 15, 1953, the treasurer be and hereby is authorized and empowered to turn over the balance of the funds of the Corporation, after payment of any outstanding indebtedness, to the Treasurer of the Warren Five Cents Savings Bank of Peabody, (the words "treasurer" or "trustee" when used herein shall mean the Treasurer of the Warren Five Cents Savings Bank for the time being or his successors where the context requires or admits), in trust however upon the following trusts and purposes:

- a. To hold the principal and invest and reinvest the same in legal securities selected by the trustee.
- b. To pay over from time to time, but not less than yearly, the entire net income therefrom, after paying its charges and expenses of the trust, to the Trustees of the Peabody Institute for the sole purpose of the purchase by the said Trustees of children's books and library materials for the use of children (children for this purpose shall be taken to mean persons under the age of 17 years).
- c. To demand and receive from the said Trustees of the Peabody Institute an accounting of the disposition of the monies so turned over, and not to make any payment to said Trustees in any year when an accounting of the previous years doing has not been made.

All such action shall be subject to the approval of the Attorney General of The Commonwealth of Massachusetts.

2. To sell the real estate of the Corporation at public or private sale to the highest bidder or offeror, and to authorize the president, treasurer and vice president to conduct negotiations and hold an auction if necessary and to execute any and all deeds and documents necessary in the premises on behalf of the Corporation and to affix the Corporate seal thereto. The proceeds of the sale shall be turned over the Warren Five Cents Savings Bank of Peabody, Trustee, to be added to the trust fund previously established by the Corporation.

WHEREFORE your petitioner respectfully prays that it may be decreed by this honorable court under the cy pres doctrine that the Petitioner Corporation be permitted to act in accordance with the vote of its managers as set forth in paragraph 6.

By its attorney

1. That, in accordance with the authority vested in the Board of Managers by vote of the members at a meeting held April 12, 1933, the Treasurer of the Corporation is authorized and empowered to pay over the balance of the funds of the Corporation, after payment of any outstanding liabilities, to the Treasurer of the Warren Five Cent Savings Bank of Newbury, (the words "Treasurer" or "trustee" when used herein shall mean the Treasurer of the Warren Five Cent Savings Bank for the time being or his successor where the context requires or admits), in trust for the purpose of the following trusts and purposes:

- a. To hold the principal and interest and reinvest the same in legal securities selected by the trustee.
- b. To pay over from time to time, but not less than yearly, the entire net income therefrom, after paying the charges and expenses of the trust, to the Treasurer of the Newbury Institute for the care and support of the poor, by the said Treasurer of children's books and literary materials for the use of children (children up to the age of 17 years).
- c. To demand and receive from the said Treasurer of the Newbury Institute an accounting of the disposition of the monies so turned over, and not to make any payment to said Treasurer in any year when an accounting of the previous year's doing has not been made.

All such action shall be subject to the approval of the Attorney General of the Commonwealth of Massachusetts.

2. To sell the real estate of the Corporation at public or private sale to the highest bidder or bidders, and to authorize the president, treasurer and vice president to conduct negotiations and hold an auction if necessary and to execute any and all deeds and documents necessary in the premises on behalf of the Corporation and to enter the Corporation's seal thereon. The proceeds of the sale shall be turned over to the Warren Five Cent Savings Bank of Newbury, Treasurer, to be added to the first fund previously established by the Corporation.

WHEREAS your petitioners respectfully pray that it may be decreed by this honorable court that the said Warren Five Cent Savings Bank of Newbury be permitted to act in accordance with the vote of its managers as set forth in paragraph 2.

By the attorney